

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL REVISION APPLICATION NO.211 OF 2006

Mahadeo Baliram Jagtap	.. Petitioner.
Vs.	
State of Maharashtra	.. Respondent.

Mr.Milind Deshmukh for the petitioner.
Mr.P.A.Pol A.P.P. for the State.

**CORAM : D.B.BHOSALE, J.
DATED : 12TH JULY, 2006**

P.C.:

. Heard learned counsel for the petitioner and learned A.P.P. for the State.

2. Rule, returnable forthwith. By consent the revision application is taken up for final hearing.

3. This revision is directed against the concurrent findings recorded by the courts below by which the petitioner has been convicted of the offence punishable under section 304-A of I.P.C. and to suffer R.I. for two years and to pay fine of Rs.5,000/- and in default to suffer simple imprisonment for one month. He has also been convicted under sections 279 and 337 of I.P.C. and 184 of the Motor Vehicles Act. The alleged incident occurred on 10.8.1998 when the petitioner was carrying 15 passengers in the tempo trax from Bamni, Dist.Osmanabad to Shinganapur. In the accident three women had to loose their life and that also caused

damage, to the vehicle, of Rs.25,000/-. The only defence propounded by the accused was that all of sudden a tempo came from opposite direction and to avoid head collusion, which could have caused severe harm to the inmates of the vehicle, the petitioner took the vehicle on the side of road and in that process it rammed against a tree. Mr.Deshmukh, learned counsel for the petitioner submitted that the accident occurred in the process of avoiding serious accident which could have taken the life of more persons. He further submitted that accident claims of all the heirs of deceased women have already been granted and they have also received the amount of compensation. He submitted that the courts below ought to have shown leniency while awarding sentence. I perused the judgments and other material placed before me with the assistance of the learned counsel for the parties. At the outset, in my opinion, the impugned judgments concurrently record the finding of guilt beyond reasonable doubt. They deserve no interference by this Court. I did not find any manifest illegality in the judgment. The findings recorded by the courts below cannot be termed as perverse or unreasonable and the view taken by the courts below is only possible view on the basis of material on record. However, keeping in view the manner in which the accident occurred and the age of the petitioner I am inclined to modify the sentence

awarded by the courts below and hence I pass the following order:

. The conviction and sentence awarded under sections 279 and 337 of I.P.C. is maintained. The conviction under section 304-A is also maintained. However, the sentence stand reduced to one year and to pay fine of Rs.5,000/- and in addition thereto the compensation of Rs.15,000/- to be paid within twelve weeks from today and in default to suffer S.I. for two months. The conviction and sentence awarded under section 184 of the Motor Vehicles Act is also maintained. All the sentences awarded to the accused shall run concurrently. The benefit of set off, if any, under section 428 of the Code of Criminal Procedure be given to the accused. The amount of compensation, if recovered, be paid to the families of the deceased women - Smt.Parvati, Smt.Ushabai and Smt.Shivbai, who died in the accident. This amount is to be paid in addition to the motor accident claim, if any, recieved by them.

(D.B.Bhosale, J.)